

No. 2015-1871

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In the United States Court of Appeals  
for the Federal Circuit

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APOTEX INC.,  
APPELLANT

v.

WYETH LLC,  
APPELLEE

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*ON APPEAL FROM THE UNITED STATES PATENT AND  
TRADEMARK OFFICE, PATENT TRIAL AND APPEAL BOARD  
NO. IPR2014-00115*

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**APPELLEE’S UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE INITIAL BRIEF**

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Pursuant to Federal Rule of Appellate Procedure 26(b) and this Court’s Rule 26(b), Appellee Wyeth LLC respectfully moves for a 45-day extension of time to file its initial brief, to and including January 25, 2015. Absent an extension, Appellee’s brief would be due on December 10, 2015.

Under Federal Rule of Appellate Procedure 26(b), “[f]or good cause, the court may extend the time prescribed by these rules” for a

party to file its brief. There is good cause for this motion, as set forth below:

1. Appellees have filed no prior motion for extension of time.
2. Between now and the current deadline of December 10, 2015, counsel for Appellee has significant commitments, including a trial in a related matter set to begin on November 19, 2015, in the United States District Court for the District of Delaware.
3. Appellee respectfully submits that an extension will not prejudice the resolution of this appeal or the issues presented therein.
4. Counsel for Appellee consulted with counsel for Appellant, who has consented to the proposed extension of time.

For these reasons, Appellee respectfully requests that its motion for an extension of time be granted and that the Court permit the filing of Appellee's brief on or before January 25, 2015.

Dated: November 9, 2015

Respectfully submitted,

/s/ David I. Berl

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No. 2015-1871

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DECLARATION OF DAVID I. BERL

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I, David I. Berl, am a partner in the law firm of Williams & Connolly LLP, and counsel of record for Appellee Wyeth LLC in the above-captioned matter. I submit this declaration in support of Appellee's Unopposed Motion for Extension of Time to File Initial Brief.

1. Between now and the current deadline of December 10, 2015, the members of Appellee's legal team—myself included—have significant commitments in other matters, including a trial in a related

matter that is set to begin on November 19, 2015, in the United States District Court for the District of Delaware.

2. To ensure that we have sufficient time to review the record and prepare our brief, counsel for Appellee respectfully requests a 45-day extension of time, until January 25, 2015, to file Appellee's initial brief in this appeal.

3. Counsel for Appellee consulted with counsel for Appellant, who has consented to the proposed extension of time.

4. The request for additional time is brought in good faith.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 9, 2015

/s/ David I. Berl  
DAVID I. BERL  
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*Counsel for Appellee Wyeth LLC*

**FORM 9. Certificate of Interest****UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Apotex Inc. v. Wyeth LLC

No. 15-1871

**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Wyeth LLC

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

See attached.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

See attached.

4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Williams & Connolly LLP (Stanley E. Fisher, David I. Berl, Thomas H.L. Selby, Adam D. Harber, Galina I. Fomenkova, Sara K. Creighton, David Kiernan, and Christopher C. Kennedy (no longer affiliated with Williams & Connolly LLP))

11/09/2015

Date

/s/ David I. Berl

Signature of counsel

David I. Berl

Printed name of counsel

Please Note: All questions must be answered

cc: \_\_\_\_\_

Wyeth LLC, a Delaware limited liability company having a place of business at 235 East 42nd Street, New York, New York 10017, is the owner of the entire interest in U.S. Patent No. 7,879,828 ("the '828 patent"). PF PRISM, C.V., a limited partnership (commanditaire vennootschap) organized and existing under the laws of the Netherlands and having offices at Blaak 40 basement, 3011 TA, Rotterdam, Netherlands, took an exclusive license in the '828 patent. Thereafter, PF PRISM C.V. contributed its rights under the exclusive license to Pfizer Pharmaceuticals LLC, a Delaware limited liability company having a place of business at Bo. Carmelitas, Road 689, Km 1.9, Vega Baja, Puerto Rico 00693. Wyeth LLC, PF PRISM C.V., and Pfizer Pharmaceuticals LLC are wholly-owned, directly or indirectly, by Pfizer Inc., a publicly-traded company. Pfizer Inc. has no parent corporation and no publicly held corporation owns 10% or more of its stock.

## CERTIFICATE OF SERVICE

I, David I. Berl, counsel for Appellee and a member of the Bar of this Court, certify that, on November 9, 2015, a copy of the foregoing Appellee's Unopposed Motion for Extension of Time to File Initial Brief was filed electronically and served by CM/ECF on counsel of record. I further certify that all parties required to be served have been served.

/s/ David I. Berl

DAVID I. BERL

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